

HOUSE BILL REPORT

SHB 1089

As Passed Legislature

Title: An act relating to instructional materials provided in a specialized format version.

Brief Description: Regarding instructional materials provided in a specialized format.

Sponsors: House Committee on Higher Education (originally sponsored by Representative McCoy).

Brief History:

Committee Activity:

Higher Education: 1/26/11, 2/7/11 [DPS].

Floor Activity:

Passed House: 3/2/11, 97-0.

Senate Amended.

Passed Senate: 4/11/11, 46-0.

House Concurred.

Passed House: 4/14/11, 97-0.

Passed Legislature.

Brief Summary of Substitute Bill

- Prohibits an institution that provides a specialized format version of instructional material to a student with a print access disability from requiring the return of the material, except in certain limited circumstances.

HOUSE COMMITTEE ON HIGHER EDUCATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Seaquist, Chair; Carlyle, Vice Chair; Haler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Buys, Crouse, Fagan, Hasegawa, Jacks, Probst, Reykdal, Sells, Springer, Warnick and Zeiger.

Staff: Cece Clynch (786-7195).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Upon request by a public or private institution of higher education acting on behalf of a student with a print access disability, a publisher of instructional materials must, unless technically unable, provide the institution any instructional material in an electronic format mutually agreed upon by the publisher and the institution. This includes computer files or electronic versions of printed instructional materials, video materials captioned or accompanied by transcriptions of spoken text, and audio materials accompanied by transcriptions. These must be provided in a timely manner and at no additional cost to the institution.

A request from an institution to a publisher for materials in a specialized format must be in writing and include the institution's certification that:

- the student has a print access disability preventing the student from utilizing the standard format material;
- the material is for the student's use in connection with a course in which the student is enrolled; and
- the student or the institution has purchased the material in its standard format prior to requesting the specialized format.

A publisher may require that requests for specialized format materials also include a statement signed by the student promising that the material will be used solely for the student's own purposes and that the student will not copy or duplicate the material for use by others. An institution that allows students to use specialized format instructional material must take precautions to ensure students do not copy or distribute the material in violation of federal copyright laws.

Institutions may also arrange for the transcription or translation of standard format materials and may share the specialized formats created with other students who have print access disabilities, including students at other institutions. Each institution must establish guidelines for implementation and administration of requests for, and use of, instructional materials in specialized formats.

The Americans with Disabilities Act (ADA) is a federal law whose purpose is to provide a clear and comprehensive national mandate for the elimination of discrimination against persons with disabilities.

Summary of Substitute Bill:

The Legislature finds that the knowledge, skill, and ability to succeed both academically and later in a chosen profession are accumulated through many sources, including instructional materials. Generally, an institution that provides a specialized format version of instructional material may not require that the student return the specialized format version.

There is a limited exception to this prohibition on requiring the return of the specialized format version when the institution has: (1) determined that it is not required to allow the student to retain the material under the ADA or other applicable laws; and (2) translated or transcribed the material into the specialized format at its own expense and the cost to reproduce a copy of the translation or transcription is greater than \$100.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) A constituent raised concerns about the return policy of the institution that she attended. Last year, the House of Representatives passed this bill but it stalled in the Senate. The student has paid for the standard format of the materials, and it is only fair that the student be allowed to keep the specialized format version for a reference library. Some institutions, such as Eastern Washington University, have required the return of the specialized format materials and even make students sign contracts promising their return. Students face fines and threats if they fail to return the materials, and the petition process in order to keep the materials can be extremely stressful. This policy protects the publisher but not the students. Students with print disabilities want to build a professional library just like other students. It does no good to have a professional library full of materials that are inaccessible due to a print disability.

(Opposed) There can be tremendous cost to an institution associated with translating or transcribing materials into a specialized format. While making a compact disc is relatively simple and costs little, it is especially costly translating materials into Braille. For instance, translating a math or science text into Braille is very time intensive. Every symbol must be reviewed and corrected. The cost to translate just four chapters of such text into Braille can cost \$10,000 to \$12,000. In light of this cost, the institution would like to save the Braille format version for use by other students in the future.

Persons Testifying: (In support) Representative McCoy, prime sponsor; and Sharon Todd.

(Opposed) Scott Copeland, State Board for Community and Technical Colleges; and Susan McPhee, Disability and Support Services Council, Pierce College.

Persons Signed In To Testify But Not Testifying: None.